



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Mitt Romney, Governor ♦ Kerry Healey, Lt. Governor ♦ Jane Wallis Gumble, Director

**CHAPTER 149 BIDDING REQUIREMENTS
FOR BUILDING RELATED
CONSTRUCTION CONTRACTS BETWEEN
\$100,000-\$10 Million
INSTRUCTIONS TO AWARDING AUTHORITIES**

DHCD has prepared a standard FRONT-END for Building Related projects estimated to cost between \$100,000. and \$10,000,000.

If you have any questions regarding the appropriate bidding statutes consult with your DHCD Project Manager.

- ☐ The following instructions will take you through each of the necessary documents so that you can complete the Project Manual. Please read these instructions carefully, modifying each section as instructed to meet the requirements for your particular project.
- ☐ The form and content of much of the attached material is mandated by the Commonwealth's public bid laws, so your careful attention to these requirements can help prevent costly delays or claims during the bidding or construction periods.
- ☐ If a section or form does not require modifications, reproduce the sections or forms directly from this package to expedite DHCD review. Retyping the package will slow the DHCD review process as each page must then be individually reviewed. DHCD can provide a floppy disk copy of this package in MS Word format
- ☐ Ask the DHCD Project Manager if you have questions about the forms or any other matters during the bidding phase of the project, and to be sure you are using the **most current documents**.
- ☐ Reminder to LHAs and Designers (A/Es) - DCAM regulations require that the LHA provide blank Contractor Qualification Statements (Form CQ2, Contractor Update Statements (Form CQ3), and Sub-bidder Update Statement Forms if potential bidders request them.
- ☐ DHCD staff conduct workshops on a regular basis to explain the Massachusetts Public Bidding Process to A/Es and Local Housing Authorities. If you are interested in attending, contact your DHCD Project Manager who will advise you when workshops are scheduled.



We have included icons to identify items that are required by Massachusetts General Law and items that are required by promulgated regulations.



THE PROJECT WILL BE BEST SERVED IF THE A/E CONCENTRATES ALL EFFORTS ON COMPLIANCE WITH THESE LAWS RATHER THAN EFFORTS TO CIRCUMVENT THEM.

I. **BID PACKETS**

Prepare Bid Packets to provide to prospective bidders when they pick up Contract Documents. Include the following in these packets:

A. **BID FORMS**

1. Three (3) copies of the Form for General Bid,
2. Three (3) copies of the Form for Sub-Bid,
3. If you are requiring Unit Prices with the Bids, separate of the bid form, attach a copy of the Unit Price Schedule to the Form for General Bid. This schedule can be obtained from your DHCD Project Manager.

B. **BIDDERS CHECKLIST - DO NOT BIND THIS CHECKLIST INTO THE PROJECT MANUAL**

1. Include the Bidders Checklist in the Bid Form Packets.
2. This Checklist is to assist bidders with bid preparation and help them avoid technical bid mistakes.
3. The Checklist is not part of the Bid Form and, therefore, is NOT REQUIRED TO BE SUBMITTED WITH THE BID.

Should bidders request only Bid Packets, please provide them free of charge.

II **PROJECT MANUAL**

- The Project Manual consists of the following:
Forms and Contracts Title Sheet,
Table of Contents,
Advertisement,
Bid Forms,
Contract Forms,
General Conditions of the Contract, and any Supplementary Conditions,
Division 1 General Requirements, and
Technical Specifications.
- We have included samples of all the required forms. Please review, modify if required, and include each form in the Project Manual.

These instructions explain what to do with each form.

A. **BIDDING AND CONTRACT FORMS**

The Entire set of Forms and Contracts is provided in PDF format on the DHCD Web Page. There are at least three forms that require modification for every project. Print the entire PDF document, modify each of the three forms that require project specific information and print copies of the modified documents. Then replace the PDF copies with the forms you have modified.

A. **PROJECT MANUAL COVER AND TITLE SHEETS**

Modify as required for this specific project.

B. TABLE OF CONTENTS

1. Modify as required for this specific project.
2. Insert Technical Specification into the Table of Contents.

C. BIDDING DOCUMENTS

1. ADVERTISEMENT

PREPARATION

- a. A sample Form for Advertisement is provided in this package. Modify to fit the specific project (**Bolded Items require modification or additional information**).

Do Not make other changes or deletions to this document unless the DHCD Project Manager so instructs you. There is statutorily required information in this form, omitting information can result in a legally mandated re-bid.

- b. Prepare an Advertisement incorporating specific details for your project. Review Bidding Schedule with the LHA and DHCD Project Manager before preparing the Advertisement.

Do not shorten this advertisement.

The sample represents the minimum information required to meet the provisions of M.G.L. c.149 §44J.

- c. You must state the category in which General Bidders must be DCAM certified and the **DCAM certified filed sub trades** that will be required.
- d. Bid openings are best scheduled for 2 o'clock to allow the morning for bid preparation.
- e. The DHCD Project Manager will coordinate the Central Register and SOMBWA notification.

- **The Advertisement is the document where bidders look for MBE-WBE requirements. It is important that the Advertisement be coordinated with all sections of the Specifications, relative to MBE-WBE requirements**

- **The Advertisement is the only document that makes the MBE-WBE Requirements enforceable**
- **If MBE-WBE Participation is not spelled out in the Advertisement, the requirement cannot be imposed after the fact**

PUBLISHING

- a. This Advertisement shall be published in a newspaper of general circulation in the locality of the proposed project once, two weeks before the first bid opening. Coordinate with the DHCD Project Manager and LHA to determine who will place the ad and in which publication(s).
- b. The Advertisement must also be posted in a conspicuous place in or near the Housing Authority office one week before the bid opening.
- c. A copy of the Advertisement should also be sent to **SOMWBA** at the same time that notification of this Bidding Opportunity is submitted to the Central Register.
- d. The bid laws also require that copies of the ad be sent to "other trade periodicals".

Send the Ad and, when appropriate, copies of the plans and specifications to the listed periodicals.

BIDDING PERIODICALS

McGraw-Hill Construction 24 Hartwell Avenue Lexington, MA 02173 Phone (781) 860-6060 <i>Or for jobs west of Worcester</i> 101 Corporate Place Rocky Hill, CT 06067 Phone (860) 529-7250 Fax (800) 724-4410	<i>Publishes Bidding Opportunities in Eastern Mass and Worcester County</i> <i>No Charge to Owners</i> <i>Publishes Bidding Opportunities in Western Mass.</i> <i>No Charge to Owners</i>
Reed Construction Data Document Processing Center 30 Technology Parkway South, Suite 500 Norcross, GA 30092-2912 Phone: (203) 426-0450 Fax: (203) 426-4578 Fax addenda to 800 303-8629 www.reedplans.com	<i>Publishes Bidding Opportunities Nation Wide</i> <i>No Charge to Owners</i>
Project Dog 18 Graf Road Suite #8 Newburyport, MA 01950 Phone: (978) 499-9014 www.projectdog.com	<i>Publishes Bidding Opportunities.</i> <i>No Charge to Owners</i>

Print the Following Forms and Include in the Project Manual

NO Modification is Necessary - the forms are provide in pdf format on our web site

2. Instructions to Bidders

Reproduce as provided unless the MBE/WBE requirements are deleted from the contract.
 In that case delete Article 3. **Be consistent with the Advertisement.**

3. Form For General Bid

This is a statutory form. **The substance of this form cannot be altered.**



- ☐ **Do Not fill in the names, amounts, or bond requirements of any sub-bidder.**
- ☐ Include one copy of General Bid Form in the Project Manual and include 3 copies in Bid Packets, described in I A above.
- ☐ If you are requesting Bidders to provide Unit Prices with the bids, attach a copy of the Schedule of Units Prices. Include this Schedule in the Bid Packets. Copies of the schedule can be obtained from your DHCD Project Manager. This is discussed further under the Unit Prices section of Division 1.

4. Form for Sub-Bid (Applies when trade is estimated to cost \$20,000 or more;



This is a statutory form. **The substance of this form cannot be altered.**

- ☐ Include one copy of Sub-bid Form in Project Manual and include 3 copies in Bid Packets
- ☐ Be sure the Contract Documents (Technical Sections) **CLEARLY** define whether sub-sub-bids are required or not required in any category of work.

D. MBE/WBE FORMS

Determine if MBE/WBE requirements will be needed for this project. The requirements for all contracts are specified in the Advertisement. This is the only place the exact requirement is defined

If there will be NO MBE/WBE requirements for this project the Front End needs to be modified as follows:

1. *Do not include the requirement in the Advertisement*
2. *Mark paragraph 3 in the Instructions to Bidders as "NOT USED"*
3. *Modify Article 15 of the General Conditions appropriately (Use Supplementary Conditions)*
4. *Do not include Section 01110 in the Division 1 General Requirements*
5. *Modify the Table of Contents appropriately*



The apparent low general bidder is required to submit the next two forms within 5 working days of the General Bid opening. Reproduce and include these forms in the Project Manual if required.

See Article 3 of the Instructions to Bidders or Article 15 of the General Conditions for more information.

1. **SOMWBA Certified Enterprise Participation Schedule**
2. **SOMWBA Letter of Intent**

E. CONTRACT FORMS

Reproduce and include the following forms in the Project Manual:

DO NOT ALTER THESE FORMS

1. **Form of Owner/Contractor Agreement**
2. **Form of Corporate Vote**
3. **Form of Contractors Equal Employment Certification**
4. **Form of Performance Bond**
5. **Form of Payment Bond**

Forms 6-8 are for Filed Subcontractors only

6. **Form of Subcontract (Filed Subcontracts)**
7. **Form of Subcontractor's Equal Employment Certification**
8. **Form of Subcontractor's Performance and Payment Bond.**

At the time of Contract Award approval, the DHCD Project Manager will provide copies of these forms to the General Contractor with instructions on how to fill them out. Copies should be included in the project manual so the bidders will know what is required. Bidders should consider these requirements when preparing their bids.

F. CONDITIONS OF THE CONTRACT

1. General Conditions of Contract



- a. DHCD has prepared General Conditions that incorporate all of the provisions required by the Massachusetts bid laws as well as other provisions that are typically included in other publications such as those prepared by the AIA. This is the ONLY acceptable document for use on DHCD funded construction contracts.

DO NOT, IN ANY WAY, ALTER THE GENERAL CONDITIONS.

- b. If necessary, create Supplementary Conditions to make modifications. Review any proposed modifications during the design reviews.
- c. The AIA General Conditions are not acceptable for DHCD funded projects.

2. Supplementary Conditions

- a. These are used to supplement or modify the General Conditions. They should be inserted just after the General Condition. A change in paper color (versus the General Conditions) will make them more noticeable.
- b. Modifications to the General Conditions require DHCD Project Manager's approval.
- c. If this project includes LEAD PAINT, ASBESTOS, or TANK REMOVAL, ask the DHCD Project Manager for a copy of the supplementary conditions for the additional insurance requirements and insert it just after the General Conditions.

G. DIVISION 1

DHCD has a Division One of the Specifications for all projects **between \$100,000.00 and \$10,000,000.**

This portion of the Front End of the Specifications **will require considerable review and modification.** Some sections contain provisions that differ if the job is modernization or new development.

The general rules for preparing the Division One are:

- ☐ Include every section unless the instructions specifically indicate that it need not be included or if you are instructed by the DHCD Project Manager to delete the section.
- ☐ Most of the items requiring investigation or modification are **shaded** in the instructions and /or on the hard copy of the sections or are shown in red on the disk copy.

01010 SUMMARY OF WORK

1. Include each paragraph unless specifically not applicable.
2. Expand this section to explain any circumstances unique to the Project, especially Work under separate Contracts. Be sure the LHA knows its obligations for Work under Separate Contracts.
3. Review Time of Completion with DHCD Project Manager.

DO NOT LEAVE TIME OF COMPLETION BLANK!!!



USE CALENDAR DAYS

01020 UNIT PRICES

Unit Prices can be used in one of three ways, discuss with the DHCD Design Review Architect before including Unit Prices in any Contract Documents.

1. **Predetermined by the Designer:** This method is most commonly used for new development projects and some modernization contracts. Follow these basic guidelines:
 - A. Use Unit Price items that are necessary for the project and consistent with the:
 1. Work Required
 2. Specifications
 3. Location of Project
 4. Time of year that work will be complete
 - B. Unit Prices should be established for the job by the cost estimator,. DHCD will not provide the Unit Prices.
 - C. Earthwork Unit Prices should be computed/measured on a “compacted in place at maximum dry density” basis.
 - D. Review the Unit Prices with the DHCD Project Manager.
 - E. Include the Schedule of Unit Prices in the Project Manual as part of Section 01020.
 - F. If the actual soil conditions are questionable, prepare specifications that instruct the Bidders to include a specific quantity of the appropriate work item in their base bid. This will minimize the effect of change orders later.
2. **Contractor Provided - at Time of Lump Sum Bid** - This process is used on modernization contracts only when there may be latent conditions that cannot be accurately quantified. Follow these guidelines in these cases:
 - A. Obtain a Schedule of Unit Price Form from the DHCD Project Manager.
 - B. Provide the quantities that the Bidders should include in their base bids and an estimate of how much they might expect in a change order situation.
 - C. Include the Schedule of Unit Prices in the Project Manual with the Form for General Bid.
 - D. Include the Schedule of Unit Prices in the Bid Packets that are handed out to Bidders picking up Contract Documents.

A WORD OF CAUTION !!!
- If you know there is a high potential for latent conditions, using this technique may encourage bidders to estimate their Base Bids low and give you very high Unit Prices - hoping to make their profit on big Change Orders
3. **Contractor Provided as part of a Unit Price Bid** - This process is used on site work contracts when the work items are well quantified. (For example - paving work.) Follow these guidelines if you have a Contract that may be bid using this process:
 - A. Obtain a sample Unit Price Bid Form from the DHCD Project Manager.
 - B. Prepare a Bid Form for your project using the sample format.
 - C. Provide the quantities on the Bid Form before printing.
 - D. The Unit Prices given will be the basis for computing the Base Bid and any change order work.

01030 ALTERNATES

1. Alternates may be requested in appropriate situations, the DHCD will decide when it is appropriate..
2. DHCD may request Alternates to provide a means to determine the cost of work funded by other sources.
3. The scope of each Alternate must be carefully described to assure competitive bidding.
4. Reference each specification section affected.

Check carefully to be sure that all affected sections have been properly cross referenced.

Be sure that Bidders will not ASS/UME that the General Contractor will be doing the filed subcontractor's work as part of an alternate.

Filed Sub Bidders are only required to look in their pages of the specifications . If alternate work affects a filed subcontractor there must be a specific reference in the affected filed subs spec section directing the Filed sub bidders to the Alternates section and a clear explanation of what the Filed sub is to do as part of the alternate. Filed subs alternate work must also be shown on the affected sub's drawings. Filed sub bidders are not required to go to an un referenced plan pages. **Catch all phrases are not acceptable.**

5. Alternates must be accepted in the order listed. Select order carefully, and check wording of each Alternate to avoid having to accept undesirable Alternates to get to necessary Alternates.
6. Alternates not accepted at Award **cannot** be added later by Change Order, this is illegal. Trying to do this can be construed as attempting to manipulate the outcome of the bid.
7. Delete this section entirely if no Alternates are used (**also correct the Bid Forms**).
8. Modify General Bid Forms and Sub-Bid Forms when Alternates are used.
Bidders are not required to provide information if space is not provided for that information.
9. Avoid mixing unit price work with lump sum alternates, it causes confusion during bidding and construction

01040 EXISTING CONDITIONS

IT IS THE DESIGNERS JOB TO DESIGN THE PROJECT

DO NOT ASSUME THAT BECAUSE SOIL EXPLORATION OR EXISTING BUILDING EXPLORATION DATA IS MADE AVAILABLE AS PART OF THE PLANS THAT BIDDERS WILL INCLUDE WORK IN THEIR BID THAT EXCEEDS YOUR DESIGN REQUIREMENTS.

BIDDERS WILL BID PRECISELY UPON THE DESIGN

THIS PROVIDES THE CONCEPT OF EQUAL FOOTING

1. Be sure to indicate ground water level in this section.
2. If borings/test pits are taken during dry periods, this should be noted and a higher groundwater level should be stated in this section.
3. This section can be modified if all boring/test pit information or existing building information is on the drawings.
4. **DO NOT** rely on catch-all phrases to inform Contractors that they are responsible for unknown existing conditions.
5. Indicate the reliability of the information presented in this section. MGL c30 § 39N afford Contractors considerable protection against less than clear and thorough Contract Documents

01045 CUTTING AND PATCHING

1. Reproduce as provided, unless modification is needed to accommodate special conditions on the project. The intent is to have the General Contractor in Complete control of Cutting and Patching.
2. Coordinate this section with technical specifications, pay particular attention to consultants who may have language in technical section(s) that may contradict requirements of this section

01050 CONDUCT OF THE WORK

1. This section is most often used in Modernization Contracts. Unless there is a specific item that needs attention this section need not be included in Development Contracts.
2. Clarify the need and budget for a Resident Coordinator with the LHA, for Modernization Contracts.
3. Determine if the scope of the work will affect or be disruptive to the residents over the holidays.

For example, projects around Thanksgiving and Christmas tend to cause controversy.

Also provide for situations where contractors may have to make special arrangements to complete work within a unit in one day or get plumbing facilities available during modernization

01100 LABOR REGULATIONS



1. Request wage rates (**in writing**) before bidding.
Obtain the appropriate form from the DHCD Project Manager and send it to:

Department of Labor and Workforce Development
399 Washington St, 5th Floor
Boston, MA 02108
Attention: DIVISION OF STATISTICS

2. The rates must be issued not more than 90 days prior to the first bid opening.
3. Wage Rates must be included in the Project Manual (in this section) per M.G.L. c.149 §§26-27H

01110 EEO and MBE/WBE PROCESS REQUIREMENTS

Reproduce as provided (without modification) for projects estimated to cost over **\$100,000**, unless the DHCD Project Manager has received a waiver from the DHCD MBE Coordinator -

WAIVERS MUST BE RECEIVED BEFORE ADVERTISING.



It is important that you coordinate all sections of the Specifications, relative to MBE/WBE requirements, with the Advertisement. The Advertisement is the document where bidders look for this requirement. It is also the only document which makes the MBE/WBE contract requirements enforceable. If MBE/WBE Participation is required for a project and it is not in the Advertisement, the requirement cannot be imposed after bidding

01300 SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES

1. Reproduce as provided, without modification.
2. Coordinate this section with technical specifications, pay particular attention to consultants who may have language in technical section(s) that may contradict requirements of this section

01500 TEMPORARY FACILITIES

1. Review this section with DHCD Project Manager to determine what items will be included/deleted.
2. Be sure of coordination with local utility companies so that bidders will be able to obtain appropriate information for temporary electricity and other utilities.
3. Verify if there will be a Project Sign and get the names correct on the project sign.
4. Decide Which Items you want the contractor to provide, consider:
 - ☐ Office and Trailers
 - ☐ Office furniture + equipment
 - ☐ Telephones + Plain Paper Fax Machine
 - ☐ Toilets
 - ☐ Structures/Storage
 - ☐ Elevator use
 - ☐ Water and Electricity
 - ☐ Weather Protection and Heat; and
 - ☐ Project Sign.

01510 PROTECTION

1. Prepare this section to clearly explain if the Contractor is to protect existing occupied units, unoccupied units, or both.
2. Noise and Dust Control are especially important on Modernization work.

01520 CLEANING UP

Review and add/delete any appropriate paragraph.

01700 PROJECT CLOSE OUT

Reproduce this section as provided.

01720 SURVEYS, RECORD DRAWINGS

If surveys are not required delete this paragraph.

1. Foundation Survey
Use this section if this is a new project with new foundations, some towns will only issue a foundation permit and will require this survey before they issue the final building permit

2. Septic System Survey.

Use or revise this section as appropriate.

If the project has a septic system determine if the Local Board of Health requires a registered survey before the new system can be backfilled and if it does incorporate that requirement into the Contract Documents

Determine this requirement before bidding

2. Record Drawings

Modify this section to provide the LHA with adequate records for future maintenance and Modernization projects.

Generally the contract should require the A/E to provide the Contractor with a set of wash off mylar originals. The Contractor will transfer As Built information to these mylars.

The A/E will be reimbursed, by the LHA, for the cost of these mylars.

01xxx OTHER

1. If other Division 1 sections, unique to this project, are necessary, review with DHCD Project Manager.
2. Use similar format, when applicable, for example:
 - ☐ Measurement and Payment of Unit Price work
 - ☐ Comprehensive Permit Conditions;
 - ☐ Conservation Commission Order of Conditions; and
 - ☐ Similar documents.

New!

XXXXX TYPICAL FILED SUB-BID SECTION

Massachusetts General Laws require Filed Sub-Bids for certain trades estimated to cost over \$20,000.

Filed Subcontractors are now required to be DCAM certified in their respective trade(s)

1. We have provided the outline of a typical filed sub-bid specification section. The Section numbering format should be in accordance with the format provided by the provided by DHCD's Design Review Staff. This format is roughly based on the CSI index – with modifications. DHCD uses the construction cost data obtained from the contractor's schedule of values. Therefore, the specification section numbering is a critical component of this data collection process.
2. Review the need for sub-sub contractors and modify the specification accordingly. If you do not understand the filed sub-sub bid requirement ask your DHCD project manager for assistance.
3. Use the sample specification as a guide to be sure all administrative requirements are addressed.